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12 UNITED STATES DISTRICT COURT  
13 DISTRICT OF NEVADA

14 Travis Sheffield,

15 Petitioner,

16 v.

17 State of Nevada,

18 Respondent.

Case No. 2:22-cv-00584-GMN-NJK

**Second Amended Petition for Writ  
of Habeas Corpus Pursuant to 28  
U.S.C. § 2254**

## INTRODUCTION

Petitioner Travis Sheffield stands convicted for the murder of Jonathan Collins, a deaf poker player. The State, however, presented no physical evidence tying Sheffield to the crime. The State instead relied on the identifications of three witnesses, each less reliable than the other. In comparison, Sheffield had an alibi. Sheffield maintains his innocence and files this petition for writ of habeas corpus under 28 U.S.C. § 2254 to overturn his conviction.

## PROCEDURAL HISTORY

### A. Three unreliable witnesses accuse Sheffield.

On May 11, 2015, decedent Jonathan Collins was shot and killed in a vehicle in the parking lot of the apartment complex in Las Vegas, Nevada. Earlier in the day, Collins and his girlfriend Julie Kniesl had just arrived in Las Vegas with thousands of dollars to buy drugs.<sup>1</sup> Notably, both Collins and Kniesl are deaf.<sup>2</sup>

They met up with Collins's friend Rufus "Richard or Rich" Smith, who acted as a middleman.<sup>3</sup> Collins communicated with Smith via hand-written notes.<sup>4</sup> Smith took them to meet with two unnamed black males at an apartment complex.<sup>5</sup> Collins wasn't satisfied with the quality of the drugs,<sup>6</sup> so Smith then took them to another dealer at the second apartment complex.<sup>7</sup> There Smith helps Collins and Kniesl buy crack.<sup>8</sup>

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<sup>1</sup> 3/20/2018 Jury Trial Day 4 at 7-10, 27.

<sup>2</sup> 3/20/2018 Jury Trial Day 4 at 41.

<sup>3</sup> 3/20/2018 Jury Trial Day 4 at 9-11.

<sup>4</sup> 3/20/2018 Jury Trial Day 4 at 15.

<sup>5</sup> 3/20/2018 Jury Trial Day 4 at 12.

<sup>6</sup> 3/20/2018 Jury Trial Day 4 at 14.

<sup>7</sup> 3/20/2018 Jury Trial Day 4 at 16.

<sup>8</sup> 3/20/2018 Jury Trial Day 4 at 15-17.

1 After the drug transaction, Smith returned to the car with one of the unnamed  
 2 black males from the first apartment complex.<sup>9</sup> The four—Collins, Kniesl, Smith, and  
 3 the unnamed black male—then drove to a third apartment complex.<sup>10</sup> There, at the  
 4 apartment complex parking lot, Smith exited the car and gestured for Collins to wait  
 5 for him.<sup>11</sup> Minutes later, the unnamed black male, seated in the rear passenger seat,  
 6 pointed a gun at Collins in the driver seat and gestured a demand for money.<sup>12</sup> Collins  
 7 opened the door, but the unnamed black male pulled Collins from behind the seat.<sup>13</sup>  
 8 The unnamed black male then shot and killed Collins.<sup>14</sup>

9 Kniesl, who was in the front passenger seat, alleged a second unidentified  
 10 black male entered the car after Smith left but before the shooting.<sup>15</sup> The two  
 11 unnamed black males in the backseat had a brief exchange after the shooting.<sup>16</sup> After  
 12 the shooting, the two unnamed black males fled in opposite directions.<sup>17</sup> This second  
 13 black male remains unidentified to this day. Police found \$7,880 in a duffel bag inside  
 14 the trunk.<sup>18</sup> Kniesl still had \$800 in her purse.<sup>19</sup>

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18 <sup>9</sup> 3/20/2018 Jury Trial Day 4 at 18.

19 <sup>10</sup> 3/20/2018 Jury Trial Day 4 at 20.

20 <sup>11</sup> 3/20/2018 Jury Trial Day 4 at 23.

21 <sup>12</sup> 3/20/2018 Jury Trial Day 4 at 25-27

22 <sup>13</sup> 3/20/2018 Jury Trial Day 4 at 27-28.

23 <sup>14</sup> 3/20/2018 Jury Trial Day 4 at 28.

24 <sup>15</sup> 3/20/2018 Jury Trial Day 4 at 32, 51-52, 54.

25 <sup>16</sup> 3/20/2018 Jury Trial Day 4 at 30.

26 <sup>17</sup> 3/20/2018 Jury Trial Day 4 at 32.

27 <sup>18</sup> 3/19/2018 Jury Trial Day 3 at 119. Kniesl testified there was \$8,000 in the  
 trunk. 3/20/2018 Jury Trial Day 4 at 27.

<sup>19</sup> 3/20/2018 Jury Trial Day 4 at 27.

1 The State charged Rufus Smith with murder, first-degree kidnapping, and two  
2 counts of attempted sale of controlled substance on May 28, 2015.<sup>20</sup> Police  
3 apprehended Smith soon after on June 4, 2015.<sup>21</sup> In his voluntary statement, Smith  
4 stated he didn't know the identity of the shooter.<sup>22</sup> Smith also alleged that at the third  
5 apartment complex, the shooter pulled out his gun, took Smith's cell phone, and  
6 ordered Smith out of the car.<sup>23</sup> Kniesl testified against Smith at his preliminary  
7 hearing on August 27, 2015.<sup>24</sup> Kniesl contradicted Smith's testimony: Smith exited  
8 the car before the shooting.<sup>25</sup>

9 The identity of the shooter remained unknown.<sup>26</sup> Smith was bound over to the  
10 Eighth Judicial District Court on November 3, 2015.<sup>27</sup>

11 Then, out of the blue, on December 16, 2015, Orlando Thompson provided a  
12 voluntary statement to police identifying the shooter.<sup>28</sup> Rufus Smith was Thompson's  
13 drug dealer.<sup>29</sup> Between the death of Collins and Smith's arrest, Thompson met up  
14 with Smith to buy drugs where he noticed Smith was shaking.<sup>30</sup> Smith explained "I  
15 fucked up, you know, I'm going to run until I get caught or until everybody else—  
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18 <sup>20</sup> 5/28/2015 Criminal Complaint, State v. Rufus Smith (15F08000X).

19 <sup>21</sup> Exh. 31: 6/4/2015 Voluntary Statement of Rufus Smith.

20 <sup>22</sup> Exh. 31: 6/4/2015 Voluntary Statement of Rufus Smith at 7.

21 <sup>23</sup> Exh. 31: 6/4/2015 Voluntary Statement of Rufus Smith at 7, 25, 27.

22 <sup>24</sup> 8/5/2015 Preliminary Hearing, State v. Rufus Smith (15F08000X).

23 <sup>25</sup> 8/27/2015 Preliminary Hearing, State v. Rufus Smith (15F08000X) at 42.

24 <sup>26</sup> 8/5/2015 Preliminary Hearing, State v. Rufus Smith (15F08000X) at 47  
(page 185).

25 <sup>27</sup> 11/3/2015 Bindover, State v. Rufus Smith (C-15-310494-1).

26 <sup>28</sup> Exh. 42: 12/16/2016 Voluntary Statement of Orlando Thompson at 3.

27 <sup>29</sup> 3/21/2018 Jury Trial Day 5 at 17.

<sup>30</sup> 3/21/2018 Jury Trial Day 5 at 18.

1 until they catch everybody else.”<sup>31</sup> After his arrest, Smith called Thompson from jail  
2 and asked Thompson to facilitate three-way calls on more than one occasion to  
3 Smith’s girlfriend, Red.<sup>32</sup> After helping facilitate the three-way calls, Red and a  
4 person Thompson knew as Snake began to appear at Thompson’s home looking to buy  
5 weed.<sup>33</sup> Thompson testified this was “weird” because Thompson had just delivered  
6 weed to Red per Smith’s request; neither Red nor Snake had ever bought weed from  
7 Thompson before.<sup>34</sup> Thompson became suspicious and googled Rufus Smith, finding  
8 articles about the murder of a deaf poker player in Las Vegas.<sup>35</sup> Thompson heard  
9 rumors Red snitched on Smith and Snake was involved in the murder.<sup>36</sup> Thompson  
10 allegedly became so concerned for his safety that he moved out of his apartment in  
11 August 2015.<sup>37</sup>

12 Sometime in October 2015, Thompson saw Snake’s uncle (unnamed) at his  
13 apartment complex and asked him for a ride to pick up his car from the repair shop,  
14 Delta Auto Care.<sup>38</sup> Along the way, Snake’s uncle picked up Snake.<sup>39</sup> During this car  
15 ride, Snake asked Thompson about the three-way calls with Smith.<sup>40</sup> Snake then  
16 allegedly confessed he “went to hit a lick for eight or nine racks, and that it went bad”  
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19 <sup>31</sup> 3/21/2018 Jury Trial Day 5 at 18.

20 <sup>32</sup> 3/21/2018 Jury Trial Day 5 at 18-19.

21 <sup>33</sup> 3/21/2018 Jury Trial Day 5 at 23-24; 3/21/2018 Jury Trial Day 5 at 40.

22 <sup>34</sup> 3/21/2018 Jury Trial Day 5 at 23-24.

23 <sup>35</sup> 3/21/2018 Jury Trial Day 5 at 25.

24 <sup>36</sup> 3/21/2018 Jury Trial Day 5 at 28-29.

25 <sup>37</sup> 3/21/2018 Jury Trial Day 5 at 30.

26 <sup>38</sup> Exh. 42: 12/16/2016 Voluntary Statement of Orlando Thompson at 3;  
27 3/21/2018 Jury Trial Day 5 at 52-53.

<sup>39</sup> 3/21/2018 Jury Trial Day 5 at 40.

<sup>40</sup> 3/21/2018 Jury Trial Day 5 at 40.

1 (rob someone for eight or nine thousand dollars).<sup>41</sup> Snake shared that “they  
2 communicated through pieces of paper” at “Rag Star[’s] apartment, at the  
3 Pinewood.”<sup>42</sup> Thompson further testified Snake shared the following details about the  
4 crime,

5 Well, he said that Rich [Smith] had jumped out of the car  
6 and the guy, he got nervous, something -- the guy made a  
7 sudden move and he got nervous and he shot the guy. And  
8 he tried to shoot the girlfriend, but she either grabbed the  
9 gun or pushed the gun down, and he ran after that.<sup>43</sup>

10 Thompson, however, didn’t immediately report Snake’s confession to the police  
11 because he allegedly he knew police would want Snake’s actual name.<sup>44</sup> So, in the two  
12 months between October 15 through December 16, 2015, Thompson testified he  
13 started befriending Rag Star, and once he added Rag Star as his friend on Facebook,  
14 he learned Snake’s name was Travis Sheffield.<sup>45</sup> Only then *after two months* did  
15 Thompson contact the police on December 16, 2015.<sup>46</sup> Thompson testified he reported  
16 Sheffield because “I was in fear for my life and my daughter’s life.”<sup>47</sup> Thompson  
17 allegedly didn’t know he would receive a \$2,000 reward.<sup>48</sup>

18 On December 21, 2015, the State charged Sheffield with inter alia murder with  
19 a deadly weapon of Collins, assault with a deadly weapon against Kniesl, and offering  
20 or attempting to sell a controlled substance to Kniesl.<sup>49</sup>

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21 <sup>41</sup> 3/21/2018 Jury Trial Day 5 at 41-42.

22 <sup>42</sup> 3/21/2018 Jury Trial Day 5 at 42-43.

23 <sup>43</sup> 3/21/2018 Jury Trial Day 5 at 42.

24 <sup>44</sup> 3/21/2018 Jury Trial Day 5 at 31, 44.

25 <sup>45</sup> 3/21/2018 Jury Trial Day 5 at 44-45.

26 <sup>46</sup> 3/21/2018 Jury Trial Day 5 at 45.

27 <sup>47</sup> 3/21/2018 Jury Trial Day 5 at 46.

<sup>48</sup> 3/21/2018 Jury Trial Day 5 at 45.

<sup>49</sup> 12/21/2015 Criminal Complaint.

1 Days later, on December 31, 2015, Smith pleaded guilty to Attempted Sale of  
2 Controlled Substance, Second Offense, with a stipulated sentence of 2-to-10 years;  
3 the State dropped the murder and first-degree kidnapping charges.<sup>50</sup> In addition,  
4 Smith also pleaded guilty to Conspiracy to Violate the Uniform Controlled Substances  
5 Act with a stipulated sentence of 1-to-5 years from a separate case to be served  
6 consecutively with his (for a total of 3-to-15 years).<sup>51</sup> Smith also agreed to testify and  
7 cooperate in the State's investigation and prosecution of the Collins murder.<sup>52</sup>

### 8 **B. State Trial Court Proceedings**

9 On January 15, 2016, police arrested Sheffield. Mace Yampolsky and Jason  
10 Margolis represented Sheffield during his seven-day jury trial, which began on March  
11 15, 2018. Two witnesses testified for the defense. Sheffield's wife Javonique Sheffield  
12 provided an alibi: Sheffield could not have perpetrated the shooting because he was  
13 with her the entirety of May 11, 2015.<sup>53</sup> Cesar Chavez testified he operated Delta  
14 Auto Care, and that according to his records, Thompson only came to the repair shop  
15 in July and August of 2015—Thompson didn't come to the repair shop around October  
16 2015 when Sheffield supposedly confessed on the way to the repair shop.<sup>54</sup>

17 The jury found Sheffield guilty on all counts on March 22, 2018.<sup>55</sup> He waived a  
18 penalty hearing by the jury.<sup>56</sup> Sheffield received an aggregate sentence of life  
19 imprisonment with eligibility for parole after 362 months.<sup>57</sup>

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21 <sup>50</sup> 12/31/2015 Guilty Plea Agreement.

22 <sup>51</sup> 12/31/2015 Guilty Plea Agreement; 3/20/2018 Jury Trial Day 4 at 82.

23 <sup>52</sup> 12/31/2015 Guilty Plea Agreement.

24 <sup>53</sup> 3/21/2018 Jury Trial Day 5 at 94.

25 <sup>54</sup> 3/21/2018 Jury Trial Day 5 at 88-91.

26 <sup>55</sup> 3/22/2018 Verdict.

27 <sup>56</sup> 3/23/2018 Stipulation and Order.

<sup>57</sup> 5/30/2018 Judgment of Conviction.

**C. State Appellate Court Proceedings**

Sheffield timely appealed and was represented by Mace Yampolsky.<sup>58</sup> Sheffield filed an opening brief on October 22, 2018, raising one issue:

1. Whether there was sufficient evidence to support a conviction of first-degree murder.<sup>59</sup>

Sheffield's counsel waived the opportunity to file a reply brief.<sup>60</sup> The Nevada Supreme Court issued an order of affirmance on July 1, 2019.<sup>61</sup> Remittitur issued on July 26, 2019.<sup>62</sup>

**D. State Post-Conviction Proceedings**

Sheffield filed a pro se petition for writ of habeas corpus with the Eighth Judicial District Court, Clark County, Nevada on May 22, 2020.<sup>63</sup> He also filed a counseled supplemental petition on July 22, 2020.<sup>64</sup> The state district court denied the petition.<sup>65</sup> Sheffield timely appealed.<sup>66</sup>

Sheffield filed an opening brief, raising the following issues:

1. Whether the district court erred not finding defense counsel rendered ineffective assistance of counsel pre-plea for failing to do necessary pretrial

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<sup>58</sup> 6/20/2018 Notice of Appeal.

<sup>59</sup> 10/22/2018 Opening Brief.

<sup>60</sup> 1/18/2019 Waiver.

<sup>61</sup> 7/1/2019 Order of Affirmance.

<sup>62</sup> 7/26/2019 Remittitur.

<sup>63</sup> 5/22/2020 Petition for Writ of Habeas Corpus (Postconviction).

<sup>64</sup> 7/22/2020 Supplemental Points and Authorities in Support of Writ of Habeas Corpus for Post Conviction Relief and Request for Evidentiary Hearing

<sup>65</sup> 3/25/2021 Notice of Entry of Findings of Fact, Conclusions of Law and Order.

<sup>66</sup> 4/5/20121 Notice of Appeal.



1 investigation and preparation and failing to retain necessary experts for  
2 consultation during pretrial;

3 2. The district court erred by not finding counsel was ineffective under  
4 Strickland for failing to file a meritorious motion for a pretrial lineup;

5 3. The district court erred by not finding defense counsel was ineffective  
6 during the trial;

7 4. The district court erred by not finding defense counsel was ineffective on  
8 direct appeal; and

9 5. The accumulation of errors violated Defendant's rights to due process of law  
10 under the Fourth, Fifth, Sixth, and Fourteenth Amendments and requires  
11 reversal.<sup>67</sup>

12 The case was transferred to the Nevada Court of Appeals, and that court issued  
13 an Order of Affirmance on March 4, 2022.<sup>68</sup> Remittitur issued on March 29, 2022.<sup>69</sup>

#### 14 **E. Federal Court Proceedings**

15 Sheffield filed a pro se petition for writ of habeas corpus in federal court on or  
16 about April 5, 2022.<sup>70</sup> The Court appointed the Federal Public Defender, District of  
17 Nevada, to represent Sheffield on May 20, 2022.<sup>71</sup> Sheffield filed a protective  
18 amended petition on August 5, 2022.<sup>72</sup> Sheffield concurrently filed a motion to further  
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23 <sup>67</sup> 8/17/2021 Opening Brief.

24 <sup>68</sup> 3/4/2022 Order of Affirmance.

25 <sup>69</sup> 3/29/2022 Remittitur.

26 <sup>70</sup> ECF No. 1-1

27 <sup>71</sup> ECF No. 6.

<sup>72</sup> ECF No. 13.

1 amend his petition.<sup>73</sup> The Court granted Sheffield's motion.<sup>74</sup> This second amended  
2 petition follows.

### 3 STATEMENT REGARDING 28 U.S.C. § 2254(D)

4 For each claim in this petition, Sheffield alleges any rulings from the Nevada  
5 appellate courts denying him relief on the merits are (or would be) (1) contrary to,  
6 and/or an unreasonable application of, clearly established Federal law, as determined  
7 by the Supreme Court of the United States; and/or (2) are (or would be) based on an  
8 unreasonable determination of the facts in light of the evidence presented in the State  
9 court proceeding.

10 Sheffield also asserts for the purposes of further review the standard of review  
11 in 28 U.S.C. § 2254(d) violates the U.S. Constitution, specifically the Suspension  
12 Clause (Article One, Section Nine, clause two); fundamental principles of separation  
13 of powers (Articles One, Two, Three); the ban on cruel and unusual punishments  
14 (Amendments Eight and Fourteen); and the guarantee of due process (Amendments  
15 Five and Fourteen). *But see Crater v. Galaza*, 491 F.3d 1119 (9th Cir. 2007) (rejecting  
16 some of these arguments).

### 17 GROUNDS FOR RELIEF

18 **Ground 1: The evidence adduced at trial was insufficient to prove Sheffield**  
19 **guilty beyond a reasonable doubt for the death of Jonathan Collins,**  
20 **and thus his judgment of conviction violates the Due Process Clause**  
21 **of the Fourteenth Amendment to the United States Constitution.**

22 **Statement of Exhaustion:** This claim was exhausted during direct appeal.<sup>75</sup>

23 Sheffield challenges the sufficiency of the evidence to sustain his conviction.  
24 The test of sufficiency of the evidence is whether, reviewing the whole record in the  
25 light most favorable to the judgment below, substantial evidence is such that a

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26 <sup>73</sup> ECF No. 15.

27 <sup>74</sup> ECF No. 19.

<sup>75</sup> 10/22/2018 Opening Brief; 7/1/2019 Order of Affirmance.

1 reasonable finder of fact could find the essential elements of the crime beyond a  
2 reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307,319 (1979). At trial, the State is  
3 required to prove each and “every element of a crime,” as well as “every fact necessary  
4 to prove the crime” beyond a reasonable doubt. *Apprendi v. New Jersey*, 530 U.S. 466,  
5 476 (2000); *In re Winship*, 397 U.S. 358,364 (1970).

6 A thorough and careful appraisal of the totality of evidence in the record makes  
7 plain that there was insufficient evidence for a reasonable jury to have correctly found  
8 enough to convict Sheffield of First-Degree Murder. Preliminarily, the State alleged  
9 the shooter killed the decedent for money, but nothing was taken, so evidence with  
10 regard to a motive for the killing was inconclusive at best.

11 The circumstances of the killing also made no sense. Jonathan Collins was shot  
12 while in the driver’s seat of his vehicle. Sheffield, Kniesl, and Collins were in the  
13 vehicle just before the shooting; Rufus Smith had left. Kniesl testified a second, as  
14 yet unidentified man approached the vehicle and briefly entered the backseat just  
15 before the shooting.<sup>76</sup> The shooter would not plan or commit a killing where a  
16 minimum of two eyewitnesses would be able to identify him within the close confines  
17 of a vehicle parked in a publicly accessible parking lot.

18 As explained below, other than three witnesses with serious credibility issues,  
19 no physical evidence connected Sheffield to the crime. Accordingly, there was  
20 insufficient evidence for a reasonable jury to find him guilty of First-Degree Murder  
21 beyond a reasonable doubt.

22 **No physical evidence connected Sheffield to the crime.**

23 The identity of the perpetrator was the main issue for the trier of fact. Despite  
24 the fact that witness Julie Kniesl alleged that Sheffield shot and killed Jonathan  
25 Collins at close range within the closed confines of an automobile, his fingerprints  
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27 <sup>76</sup> 3/20/2018 Jury Trial Day 4 at 32.

1 were never discovered at the crime scene.<sup>77</sup> On the other hand, police found  
2 fingerprints in the vehicle belonging to co-defendant Rufus Smith, as well as those  
3 belonging to the victim and Kniesl.<sup>78</sup> Police also found no DNA belonging to Sheffield  
4 inside the vehicle, the parking lot where, or any other tangible piece of evidence  
5 collected in the case.<sup>79</sup> The firearm was never recovered and as such could not be  
6 tested for the presence of latent fingerprints.

7 On February 16, 2018, Sheffield filed an Expert Witness Request seeking  
8 permission to hire and funds to pay an expert witness to opine on the absence of  
9 physical evidence linking Sheffield to the crime scene and what the absence of this  
10 evidence may mean. On February 20, 2018, the trial court issued an Order denying  
11 Sheffield's Expert Witness Request without a hearing.

12 **There was a possible alternative perpetrator whom the state of**  
13 **Nevada failed to investigate or identify.**

14 Julie Kniesl acknowledged the existence of a third person—a young man—who  
15 appeared right before the shooting and disappeared just as quickly as he came.<sup>80</sup> No  
16 one was able, or willing, to identify this third man. This third person was probably  
17 affiliated with co-defendant Rufus Smith because he appeared soon after Smith  
18 exited the scene, thereby giving Smith plausible deniability. Police never identified  
19 this person, or at least never disclosed the identity to the defense. The lack of evidence  
20 for this unidentified black male undermined the credibility of Julie Kniesl, who  
21 testified to his existence. In a case where there is a complete lack of physical evidence,  
22 no murder weapon, no DNA, no fingerprints, and questionable witnesses, the  
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25 <sup>77</sup> 3/19/2018 Jury Trial Day 3 at 90-103.

26 <sup>78</sup> 3/19/2018 Jury Trial Day 3 at 99, 101.

27 <sup>79</sup> 3/19/2018 Jury Trial Day 3 at 80-89.

<sup>80</sup> 3/20/2018 Jury Trial Day 4 at 32, 51-52, 54.

1 purported existence of this alternate suspect is yet another piece of the puzzle that  
2 the State appears to be missing, raising reasonable doubt of Sheffield's guilt.

3 **Julie Kniesl only identified Sheffield after he was arrested.**

4 Despite the horrific nature of the event in which her boyfriend lost his life,  
5 Kniesl could not identify the shooter or provide consistent details of what happened  
6 that day. Kniesl probably failed to provide details due to her disability, faulty  
7 memory, prior criminal record, drug addiction issues, and preexisting relationship  
8 with her drug dealer, Rufus Smith. Her inconsistency may have been by design to  
9 minimize her own responsibility for setting forth the chain of events that culminated  
10 in the death of Collins. Alternatively, Kniesl simply didn't notice much on the day of  
11 the crime because she was simply not paying much attention—she testified she was  
12 playing on her phone and had just bought crack cocaine.<sup>81</sup>

13 Julie Kniesl was not certain Sheffield was the person who shot her boyfriend  
14 Jonathan Collins from the backseat of the Cadillac. Kniesl didn't identify Sheffield  
15 during a photo lineup.<sup>82</sup> She only identified Sheffield at his preliminary hearing,  
16 which was highly suggestive because Sheffield had already been charged and was the  
17 only person in the courtroom to choose from.<sup>83</sup> Indeed, at the preliminary hearing,  
18 Kniesl testified, "I didn't know what he looked like until I arrived today and then I  
19 had a face to attach to the name."<sup>84</sup>

20 This lack of certainty, coupled with the scarcity of physical evidence of any kind  
21 placing Sheffield at the scene of the crime, calls into question the sufficiency of the  
22 evidence upon which this jury based its verdict. Kniesl was never definitive in her  
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24 <sup>81</sup> 8/27/2015 Preliminary Hearing at 65, 87-88.

25 <sup>82</sup> Exh. 19: 5/11/2015 Voluntary Statement by Julie Kniesl at 83; 3/20/2018  
26 Jury Trial Day 4 at 39; 3/21/2018 Jury Trial Day 5 at 73-74.

27 <sup>83</sup> 3/20/2018 Jury Trial Day 4 at 40.

<sup>84</sup> 9/23/2016 Preliminary Hearing at 66.

1 identification of Sheffield until she took the stand at the preliminary hearing and saw  
2 Sheffield—only then was she suddenly, emphatically assured he was the shooter.

3 **Rufus Smith only identified Sheffield after he received a generous**  
4 **plea offer.**

5 Rufus Smith was a critical witness for the State because he was a co-  
6 conspirator who turned on Sheffield. Smith had preexisting relationships with all  
7 other occupants of the vehicle, whereas Jonathan Collins and Kniesl didn't know  
8 Sheffield. Everything that happened that fateful day could not have occurred but for  
9 the involvement of Smith.

10 Smith had every reason to point his finger squarely at Sheffield and sign the  
11 favorable plea deal. Although Smith held out for several months after being arrested,  
12 he eventually named Sheffield as the shooter after Kniesl testified against him at a  
13 preliminary hearing. At trial, Smith testified about his motive for deciding to  
14 allegedly conspire with Sheffield to rob Collins:

15 Q: So you couldn't find the weed?

16 A: Said we couldn't find the weed.

17 Q: Uh-huh.

18 A: So we just didn't let it go by.

19 Q: You didn't let it go by?

20 A: Yes.

21 Q: What does that mean?

22 A: We couldn't—we couldn't find the weed at the second  
23 location. So we didn't just want to send them and they  
24 get it from somewhere else.

25 Q: Okay. So you didn't want them to go buy weed from  
26 somewhere else?

27 A: Yes. Yes, sir.

Q: So what—what was—I guess what I'm getting at, Rufus,  
is—did there come a time where you weren't going to  
get weed for them, you guys were going to do  
something else?

A: Yes. Yes, sir.

Q: Okay. And was that your idea or was that the  
defendant's idea?

A: It was the defendant's idea.

Q: And what was that idea?

1 A: To take the money, to rob them.<sup>85</sup>

2 In other words, Smith spent the morning trying to help Collins and Kniesl find a drug  
3 dealer, then after two failed stops, Smith suddenly agreed with Sheffield to rob them.

4 Rufus Smith acted as any criminal would do when faced with a lengthy prison  
5 sentence—blame someone else and shift the lion’s share of the responsibility for the  
6 murder at the feet of Sheffield. Smith’s motives are certainly suspect. Based on his  
7 cross examination, Smith made several key admissions concerning to his credibility:

8 Q: And as part of that deal (Guilty Plea Agreement), you  
9 received a sentence of 3 to 15, correct?

10 A: Yes.

11 Q: So that means the least time you’ll do in prison is  
12 three years, correct?

13 A: Correct.

14 Q: And the most you could do in prison is 15 years,  
15 correct?

16 A: Correct.

17 Q: Correct? Okay. So the most you do is nine years-

18 A: Yes.

19 Q: Yes? Okay. Now you previously testified at the  
20 Preliminary Hearing of Sheffield, correct?

21 A: Correct.

22 Q: And in that, you swore to tell the truth.

23 A: Yes.

24 Q: Correct? And you did tell the truth?

25 A: I did.

26 Q: Okay. And do you remember being asked if you came  
27 in here today and said Sheffield-excuse me-and said,  
Sheffield, he had nothing to do with this, your  
sentence next week wouldn’t be the two year  
minimum, would it? And you said, “probably wouldn’t  
get a deal.” Do you remember that?

A: Yes.

Q: Okay. And you were also asked: “Are you testifying  
today, pointing Sheffield out, in large part just to take  
advantage of this good deal you got in District Court?”  
And you said, “Yes, sir.”

A: Yes.

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<sup>85</sup> 3/20/2018 Jury Trial Day 4 at 74-75.

1 Q: Okay. And you said you didn't see the shooting?

2 A: Correct.

3 Q: Correct? You heard the gunshot?

4 A: Correct.

5 Q: After you got out of the car, did you see anyone else  
6 get into the car?

7 A: No.

8 Q: And on-on that day, you didn't know who pulled the  
9 trigger?

10 A: No, I didn't.

11 Q: You're friends with Orlando Thompson?

12 A: Yes.<sup>86</sup>

13 To recap, Smith admitted he probably wouldn't have blamed Sheffield but for  
14 the plea deal. Smith was objectively biased because he avoided a murder charge and  
15 received just 3-to-15 years (3-to-9 years with good behavior) in exchange for his  
16 testimony against Sheffield. Smith also admitted he was friends with Orlando  
17 Thompson, a witness who just so happens to receive murder confessions from people  
18 he hardly knows while on the way to pick up his car. In the absence of any physical  
19 evidence linking Sheffield to the crime, Smith's obvious credibility issue undermined  
20 confidence in Sheffield's conviction.

21 **Orlando Thompson's story strains credibility.**

22 Thompson provided the most incredulous testimony against Sheffield:  
23 Sheffield allegedly confessed to murder while Thompson, a known friend of Rufus  
24 Smith, sat in the backseat. At trial, Thompson took great pains to try and put some  
25 distance between himself and Smith, attempting to downplay their friendship during  
26 cross examination:

27 Q: Mr. Thompson, you were friends with Rufus.

A: No.

Q: You were acquaintances with Rufus?

A: Yes.

Q: Business associates, shall we say?

A: Yes.

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<sup>86</sup> 3/20/2018 Jury Trial Day 4 at 90-91.



1 Q: Because he supplied you with weed?

2 A: Yes.

3 Q: And after, you also sold weed?

4 A: Yes.

5 Q: And many people knew you sold weed?

6 A: Yes.

7 Q: And after Rufus called you from jail, Sheffield and, I'll  
8 call her Red, came to visit you, correct?

9 A: Yes.<sup>87</sup>

10 The above exchange is emblematic of Thompson's role throughout the case  
11 wherein he minimized his own associations with both Sheffield and Smith, yet he  
12 seems to know intimate details regarding the incidents leading to crime. If Thompson  
13 is to be believed, he knew Smith only casually through prior marijuana transactions,  
14 and he barely knew Sheffield. Furthermore, just prior to confessing, Sheffield  
15 allegedly asked Thompson about his three-way calls with Smith.<sup>88</sup> Under those  
16 circumstances, it strains credulity to believe that Sheffield would, unsolicited and  
17 without prompting, volunteer his involvement in a robbery and homicide with a  
18 friend of Smith's. And as icing on the cake, the State paid \$2,000 for Thompson's  
19 testimony.<sup>89</sup>

20 Moreover, Thompson's testimony couldn't be verified and was actually  
21 contradicted by defense witness Cesar Chavez. Thompson alleged Snake's uncle was  
22 giving him a ride to put up his car to Delta Auto Body.<sup>90</sup> Cesar Chavez, the owner of  
23 Delta Auto, testified he has no receipts for Thompson during the relevant time  
24 period.<sup>91</sup> Thompson went on to explain that he would sometimes hire pay Sheffield's

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25 <sup>87</sup> 3/21/2018 Jury Trial Day 5 at 51-52.

26 <sup>88</sup> 3/21/2018 Jury Trial Day 5 at 40.

27 <sup>89</sup> 3/21/2018 Jury Trial Day 5 at 45.

<sup>90</sup> 3/21/2018 Jury Trial Day 5 at 52-53.

<sup>91</sup> 3/21/2018 Jury Trial Day 5 at 87-91.

1 uncle, whom he knew only as "Unc," for rides around town.<sup>92</sup> During one of these  
 2 rides, Sheffield was also in the car:

3 Q: Okay. Now you previously-you previously testified  
 4 that when you were in the car with Mr. Travis-excuse  
 5 me, Sheffield and Unc, that Sheffield told Unc that he  
 shot someone?

6 A: Yes.

7 Q: All right. And was-and this was after he-he told you  
 8 they were trying to hit a lick, correct?

9 A: Well-

10 Q: Try and do a lick?

11 A: What?

12 Q: Do you understand what I'm saying?

13 A: No, I don't.

14 Q: Okay. You testified previously that when Sheffield  
 15 talked to you, he said they were going to do a lick,  
 16 correct?

17 A: Yeah. Well, he wasn't speaking directly to me. He was-

18 Q: Oh, who was he speaking to?

19 A: He was speaking to Unc.

20 Q: He was speaking to Unc. And he said, we were-we  
 21 were going to do a -it is-let me back, the term is hit a  
 22 lick?

23 A: Yes.

24 Q: Correct? Okay. And he asked you something about  
 25 eight racks?

26 A: Yeah. Eight or nine racks.

27 Q: And that would be \$8- or \$9,000.00?

A: Yes.

Q: Okay. And he was saying this to you, or is he saying  
 this to Unc?

A: No. He was speaking to Unc.

Q: Okay. Now, he said he got nervous and shot this guy,  
 correct?

A: Yes.

Q: And he said that to you?

A: No.<sup>93</sup>

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<sup>92</sup> 3/21/2018 Jury Trial Day 5 at 26.

<sup>93</sup> 3/21/2018 Jury Trial Day 5 at 54-55.

1 Notably, police never bothered to interview Unc, who was the driver of the vehicle  
2 when Sheffield allegedly confessed.

3 During closing arguments, the State argued Thompson was credible because  
4 he offered a detail to the crime: that there was “eight or nine racks (\$8,000 or \$9,000)”  
5 in the vehicle.<sup>94</sup> The State claimed Thompson must have learned this information  
6 from Sheffield. On the contrary, Thompson could have learned this information from  
7 Smith. After all, Thompson and Smith were friends.<sup>95</sup> Thompson admitted  
8 communicating with Smith while Smith was in jail because Thompson testified  
9 helping Smith facilitate three-way calls.<sup>96</sup> By the time Thompson provided his  
10 voluntary statement to the police, Kniesl had testified against Smith at his  
11 preliminary hearing, so Smith could have also relayed details from Kniesl’s  
12 testimony. Thus, Thompson’s knowledge of the details was irrelevant and added  
13 nothing to his credibility. If anything, Thompson’s knowledge of details may suggest  
14 he worked with Smith to accuse Sheffield.

15 The dubious nature of Thompson’s testimony, when viewed alongside the  
16 similarly afflicted testimony of Julie Kniesl and co-defendant Rufus Smith and,  
17 should have raised reasonable doubt as to Sheffield’s ultimate guilt. On the other  
18 hand, the defense presented Cesar Chavez, who testified Thompson didn’t come to  
19 his shop that day,<sup>97</sup> and an alibi witness, Javonique Sheffield, who testified Sheffield  
20 was with her at home that entire day.<sup>98</sup> Accordingly, the Nevada Supreme Court’s  
21 decision denying Sheffield relief was contrary to, or involved an unreasonable  
22 application, of clearly established federal law, and/or involved an unreasonable  
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24 <sup>94</sup> 3/22/2018 Jury Trial Day 5 at 19, 59.

25 <sup>95</sup> 3/20/2018 Jury Trial Day 4 at 91.

26 <sup>96</sup> 3/21/2018 Jury Trial Day 5 at 40.

27 <sup>97</sup> 3/21/2018 Jury Trial Day 5 at 87-91.

<sup>98</sup> 3/21/2018 Jury Trial Day 5 at 95-96.

determination of the facts adduced in the state court record under 28 U.S.C. § 2254(d)(1) and (d)(2).

**Ground 2: Sheffield was denied effective assistance of trial counsel under the Sixth and Fourteenth Amendments to the United States Constitution for the following reasons:**

**A. Failure to test fingerprints of pill bottle filled with bullets.**

**Statement of Exhaustion:** This claim is new, technically exhausted, and procedurally defaulted, but Sheffield overcomes the default under *Martinez v. Ryan*.

Police recovered a pill bottle container at the first apartment with .32 caliber cartridges.<sup>99</sup> The State's firearms analyst testified the shooter used .32 caliber ammunition in this case.<sup>100</sup> Police, however, failed to take fingerprints from the pill bottle.<sup>101</sup> Kniesl testified the shooter smoked weed with her, Collins, and Smith at the first apartment.<sup>102</sup> It's reasonable to believe the ammunition in the pill bottle was used by the shooter. Had trial counsel filed a motion to fingerprint the pill bottle, trial counsel could have persuaded whoever handled the pill bottle was the actual shooter. After all, during deliberations, the jury sent a note asking about fingerprints on the pill bottle.<sup>103</sup> The note demonstrated the jury had doubts about the identity of the shooter and thought the ownership of the pill bottle and .32 caliber cartridges was important. Thus, trial counsel was ineffective for failing to test it.

**B. Failed to address four jury questions.**

**Statement of Exhaustion:** This claim is new, technically exhausted, and procedurally defaulted, but Sheffield overcomes the default under *Martinez v. Ryan*.

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<sup>99</sup> Exh. 25: 5/11/2015 LVMPD Officer's Report at 18.

<sup>100</sup> 3/19/2018 Jury Trial Day 3 at 73.

<sup>101</sup> See 3/19/2018 Jury Trial Day 3 at 98-103 (no mention of pill bottle).

<sup>102</sup> 3/20/2018 Jury Trial Day 4 at 14.

<sup>103</sup> 3/22/2018 Jury Trial Day 6 at 68.

1 During deliberations, the jury sent a note to the court with four questions they  
2 wanted answered before the made their decision:

3 Number one, who lived in the apartment (3601 Cambridge,  
4 #229) (first apartment)?

5 Number two, is defendant right or left-handed?

6 Number three, where was Julie [Kniesl]'s purse at the time  
7 of the shooting?

8 Number four, were fingerprints taken of the pill bottle with  
9 the bullets in it found at first apartment? If so, who?  
10 Exhibit 83.<sup>104</sup>

11 Trial counsel conceded he couldn't supplement the record with new evidence at that  
12 point.<sup>105</sup>

13 By asking these evidentiary questions, the jurors expressed doubt on  
14 Sheffield's guilt. Trial counsel was deficient for failing to address the juror's questions  
15 during trial. Had trial counsel answered the questions during trial, there is a  
16 reasonable probability of a different outcome.

17 Police recovered a pill bottle container at the Cambridge apartment (the first  
18 apartment) with .32 caliber cartridges.<sup>106</sup> The State's firearms analyst testified the  
19 shooter used .32 caliber ammunition in this case.<sup>107</sup> Police, however, failed to take  
20 fingerprints from the pill bottle.<sup>108</sup> Kniesl testified the shooter smoked weed with her,  
21 Collins, and Smith at the first apartment.<sup>109</sup> It's reasonable to believe the  
22 ammunition in the pill bottle was used by the shooter. Had trial counsel filed a motion

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23 <sup>104</sup> 3/22/2018 Jury Trial Day 6 at 68.

24 <sup>105</sup> 3/22/2018 Jury Trial Day 6 at 68.

25 <sup>106</sup> Exh. 25: 5/11/2015 LVMPD Officer's Report at 18.

26 <sup>107</sup> 3/19/2018 Jury Trial Day 3 at 73.

27 <sup>108</sup> See 3/19/2018 Jury Trial Day 3 at 98-103 (no mention of pill bottle).

<sup>109</sup> 3/20/2018 Jury Trial Day 4 at 14.

1 to fingerprint the pill bottle, trial counsel could have persuaded whoever handled the  
2 pill bottle was the actual shooter.

3 The pill bottle was important because the jury asked who rented the apartment  
4 where it was found. Trial counsel could have obtained this information during the  
5 examination of Rufus Smith or the police. After all, Smith led Collins and Kniesl to  
6 the first apartment.<sup>110</sup> Rufus testified Sheffield and another person were inside the  
7 apartment.<sup>111</sup> The evidence presented at trial was unclear whether Sheffield or the  
8 other person resided there. Smith presumably knew who lived there. And according  
9 to the police report, Arthur “Rag Star” Cooper was the renter, not Sheffield.<sup>112</sup> It’s  
10 reasonable the jury wanted to know who lived at the first apartment because the  
11 police found the pill bottle with the .32 caliber cartridges there. Had the jury known  
12 to whom the pill bottle belonged, trial counsel could have raised reasonable doubt  
13 whether Sheffield was the shooter.

14 The jury also wanted to know more details about how the shooting took place  
15 inside the car. By asking whether Sheffield was right- or left-handed and where  
16 Kniesl had her purse, the jury demonstrated they struggled with the body mechanics  
17 of the shooting. Trial counsel could have asked Sheffield’s wife, Javonique, whether  
18 he was right- or left-handed. Trial counsel also could have asked Kniesl where she  
19 placed her purse with \$800.<sup>113</sup> The jury probably had questions about the crime itself  
20 because the motive didn’t make sense. Smith testified there was a conspiracy to rob  
21 Collins and Kniesl,<sup>114</sup> but the shooter never attempted to take money from Kniesl. In  
22 fact, according to Kniesl, just before the shooting occurred, another man entered the  
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24 <sup>110</sup> 3/20/2018 Jury Trial Day 4 at 68.

25 <sup>111</sup> 3/20/2018 Jury Trial Day 4 at 68.

26 <sup>112</sup> Exh. 25: 5/11/2015 LVMPD Officer’s Report at 14.

27 <sup>113</sup> 3/20/2018 Jury Trial Day 4 at 27.

<sup>114</sup> 3/20/2018 Jury Trial Day 4 at 75-76.

1 backseat of the car.<sup>115</sup> Then after the shooting occurred, the two men in the backseat  
 2 ran off in separate directions.<sup>116</sup> Neither demanded money nor searched for money in  
 3 the car, despite \$8,000 in the trunk and another \$800 in the purse.<sup>117</sup> They just bolted  
 4 away. Answering these two jury inquiries may undermined Kniesl's credibility on  
 5 how the shooting occurred. Therefore, trial counsel was ineffective for failing to  
 6 address the jury's four inquiries, which meant Sheffield lost four opportunities to raise  
 7 reasonable doubt.

8 **C. Failure to mention alibi witness JaVonique Sheffield during**  
 9 **closing arguments.**

10 **Statement of Exhaustion:** This claim was exhausted during post-  
 11 conviction.<sup>118</sup>

12 For his defense, trial counsel presented Javonique Sheffield who testified on  
 13 the day of the shooting, May 11, 2015, Sheffield was home with her all day.<sup>119</sup> During  
 14 closing arguments, however, trial counsel failed to mention this alibi defense. In  
 15 rebuttal closing arguments, the State pounced on trial counsel's failure to mention  
 16 the alibi defense, arguing the trial counsel's neglect meant that Javonique lacked  
 17 credibility.<sup>120</sup>

18 Trial counsel's deficient performance prejudiced Sheffield. "[T]he very premise  
 19 of our adversary system of criminal justice is that partisan advocacy on both sides of  
 20 a case will best promote the ultimate objective that the guilty be convicted and the  
 21 innocent go free." *Herring v. New York*, 422 U.S. 853, 862 (1975). Closing arguments  
 22

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23 <sup>115</sup> 3/20/2018 Jury Trial Day 4 at 28-29.

24 <sup>116</sup> 3/20/2018 Jury Trial Day 4 at 32.

25 <sup>117</sup> 3/20/2018 Jury Trial Day 4 at 27.

26 <sup>118</sup> 3/4/2022 Order of Affirmance.

27 <sup>119</sup> 3/21/2018 Jury Trial Day 5 at 96.

<sup>120</sup> 3/22/2018 Jury Trial Day 6 at 62-63.

1 play a critical role at trial—“no aspect of such advocacy could be more important than  
2 the opportunity finally to marshal the evidence for each side before submission of the  
3 case to judgment.” *Id.* It’s only in closing a defendant can present a complete  
4 defense—“it is only after all the evidence is in that counsel for the parties are in a  
5 position to present their respective versions of the case as a whole” and that “for the  
6 defense, closing argument is the last clear chance to persuade the trier of fact that  
7 there may be reasonable doubt of the defendant's guilt.” *Id.*

8 Trial counsel needed Javonique’s alibi testimony because three witnesses  
9 pointed the finger at Sheffield, but each of the State’s three witnesses had credibility  
10 issues, as argued in Ground 1 and incorporated herein. Julie Kniesl couldn’t identify  
11 the shooter from a lineup and merely presumed Sheffield was the shooter when she  
12 saw him at the preliminary hearing: “I didn’t know what he looked like until I arrived  
13 today and then I had a face to attach to the name.”<sup>121</sup> Rufus Smith admitted he only  
14 identified Sheffield as the shooter because he got a plea deal: “Are you testifying  
15 today, pointing Sheffield out, in large part just to take advantage of this good deal  
16 you got in District Court?” . . . Yes.”<sup>122</sup> And Orlando Thompson, the State’s \$2,000  
17 witness,<sup>123</sup> dubiously claimed Sheffield confessed to the crime while Thompson was  
18 in the backseat of the car, despite Sheffield knowing Thompson helped facilitate  
19 three-way calls for Smith in jail.<sup>124</sup> Javonique’s testimony only further undermined  
20 the State’s case against Sheffield. Accordingly, trial counsel was ineffective for failing  
21 to argue an alibi defense supported by witness testimony.

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25 <sup>121</sup> 9/23/2016 Preliminary Hearing at 66.

26 <sup>122</sup> 3/20/2018 Jury Trial Day 4 at 90-91.

27 <sup>123</sup> 3/21/2018 Jury Trial Day 5 at 45.

<sup>124</sup> 3/21/2018 Jury Trial Day 5 at 40.



**D. Failure to obtain an expert on eyewitness identification.**

**Statement of Exhaustion:** This claim was exhausted during post-conviction.<sup>125</sup>

Despite the horrific nature of the event in which her boyfriend lost his life, Julie Kniesl could not identify the assailant or provide consistent details of what happened that day. Kniesl was not certain Sheffield shot her boyfriend Jonathan Collins from the backseat. Kniesl could not adequately identify Sheffield during a photo lineup.<sup>126</sup> She only identified Sheffield at his preliminary hearing, which was highly suggestive because Sheffield had already been charged and was the only person to choose from.<sup>127</sup> At the preliminary hearing, Kniesl testified, “I didn’t know what he looked like until I arrived today and then I had a face to attach to the name.”<sup>128</sup>

Trial counsel should have hired an expert on eyewitness identification to explain to the jury why Kniesl’s identification of Sheffield was unreliable. Sheffield sought an eyewitness identification expert during post-conviction,<sup>129</sup> but the state court denied his petition without an evidentiary hearing. Upon appointment of federal counsel, Sheffield hired Dr. Cara Laney, a psychology professor and an expert on eyewitness identifications, police procedures, and jury decision-making.<sup>130</sup> Dr. Laney heavily criticized police photo lineups because the pictures in the lineups didn’t

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<sup>125</sup> 3/4/2022 Order of Affirmance.

<sup>126</sup> Exh. 19: 5/11/2015 Voluntary Statement by Julie Kniesl at 83; 3/20/2018 Jury Trial Day 4 at 39; 3/21/2018 Jury Trial Day 5 at 73-74.

<sup>127</sup> 3/20/2018 Jury Trial Day 4 at 40.

<sup>128</sup> 9/23/2016 Preliminary Hearing at 66.

<sup>129</sup> 7/22/2020 Supplemental Points and Authorities in Support of Writ of Habeas Corpus for Post Conviction Relief and Request for Evidentiary Hearing at 30.

<sup>130</sup> Exh. 49: Expert Report by Cara Laney at 1.

1 match the Kniesl's description of shooter.<sup>131</sup> Other factors may have also affected  
2 Kniesl's identification and memory. Kniesl is white and the shooter is black, so her  
3 identification may have been affected by cross-race bias.<sup>132</sup> Kniesl's memory may  
4 have been compromised because she focused on the weapon pointed at her rather  
5 than focusing on the face of the shooter.<sup>133</sup>

6 Most importantly, Dr. Laney described Kniesl's in-court identification as  
7 "essentially worthless and should not be relied upon."<sup>134</sup> This is because inter alia  
8 Kniesl made the identification 16 months after the crime and saw at least 24 faces in  
9 police lineups during the interim.<sup>135</sup> And prior to making her in-court identification,  
10 the police informed her that they had arrested the culprit, making her identification  
11 "the product of outside information and her own assumptions rather than her  
12 memory for the crime."<sup>136</sup> Kniesl may have experienced "unconscious transference,  
13 essentially confusing her memory for the perpetrator with her memory for another  
14 person, encountered elsewhere"—i.e., "where a face is remembered as being from one  
15 context (e.g., the man holding the gun) when in fact he was seen in another context  
16 (e.g., on the street, in a mugshot, or in a different role in the crime).<sup>137</sup> According to  
17 Dr. Laney, this problem cannot be corrected—Kniesl's corrupted memory cannot be  
18 undone and she has permanently associated her memory of the shooter with the  
19 person she saw at the preliminary hearing, Sheffield.<sup>138</sup>

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21 <sup>131</sup> Exh. 49: Expert Report by Cara Laney at 8.

22 <sup>132</sup> Exh. 49: Expert Report by Cara Laney at 8-9.

23 <sup>133</sup> Exh. 49: Expert Report by Cara Laney at 14.

24 <sup>134</sup> Exh. 49: Expert Report by Cara Laney at 10.

25 <sup>135</sup> Exh. 49: Expert Report by Cara Laney at 11.

26 <sup>136</sup> Exh. 49: Expert Report by Cara Laney at 12.

27 <sup>137</sup> Exh. 49: Expert Report by Cara Laney at 13-14.

<sup>138</sup> Exh. 49: Expert Report by Cara Laney at 15.

1 Dr. Laney would have testified Kniesl's identification of Sheffield was "unduly  
 2 influential" to the jury.<sup>139</sup> According to Dr. Laney, "Jurors put substantial faith in  
 3 eyewitness identifications and often overvalue witness confidence." At the same time,  
 4 "Jurors also undervalue key factors, including identification procedure errors."<sup>140</sup>  
 5 Taken together, Kniesl's identification of Sheffield was unreliable, and the jury  
 6 heavily relied on this unreliable identification. Had trial counsel was hired an expert  
 7 in eyewitness identification like Dr. Laney, trial counsel could have undermined  
 8 Kniesl's credibility.

9 Accordingly, the Nevada Supreme Court's decision denying Sheffield relief was  
 10 contrary to, or involved an unreasonable application, of clearly established federal  
 11 law, and/or involved an unreasonable determination of the facts adduced in the state  
 12 court record under 28 U.S.C. § 2254(d)(1) and (d)(2).

13 **E. Failure to file a meritorious motion for a pretrial lineup.**

14 **Statement of Exhaustion:** This claim was exhausted during post-  
 15 conviction.<sup>141</sup>

16 As argued in Grounds 1 and 2(D) and incorporated herein, the State used a  
 17 suggestive in-court identification procedure for Julie Kniesl to identify Sheffield.  
 18 Trial counsel knew his client would likely be identified during a suggestive in-court  
 19 show-up at the preliminary hearing. Trial counsel, however, did nothing to challenge  
 20 the unconstitutional identifications. Trial counsel should have filed a motion for a  
 21 pretrial lineup to address this problem.

22 Nearly fifty years ago, the United States Supreme Court in a trilogy of cases,  
 23 *United States v. Wade*, 388 U.S. 218 (1967); *Gilbert v. California*, 388 U.S. 263 (1967);  
 24

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25 <sup>139</sup> Exh. 49: Expert Report by Cara Laney at 16.

26 <sup>140</sup> Exh. 49: Expert Report by Cara Laney at 16.

27 <sup>141</sup> 3/4/2022 Order of Affirmance.

1 *Stovall v. Denno*, 388 U.S. 293 (1967) found that the right to counsel applies to  
2 physical lineups. The Supreme Court noted, “The vagaries of eyewitness  
3 identification are well-known; the annals of criminal law are rife with instances of  
4 mistaken identification. *Wade*, 388 U.S. at 228 (citations omitted). Human error  
5 hasn’t changed since then, and the State keeps applying flawed identification  
6 procedures.

7 Trial counsel’s failure to move for a pretrial lineup prejudiced Sheffield. In  
8 preparation for the preliminary hearing, police informed Julie Kniesl that they had  
9 arrested the shooter. Kniesl predictable identified Sheffield at the preliminary  
10 hearing despite failing to identify him in previous photo lineups. A pretrial lineup  
11 could have protected Sheffield from the suggestive in-court identification.  
12 Accordingly, the Nevada Supreme Court’s decision denying Sheffield relief was  
13 contrary to, or involved an unreasonable application, of clearly established federal  
14 law, and/or involved an unreasonable determination of the facts adduced in the state  
15 court record under 28 U.S.C. § 2254(d)(1) and (d)(2).

16 **F. Failure to object to prosecutorial misconduct during closing**  
17 **argument.**

18 **Statement of Exhaustion:** This claim was exhausted during post-  
19 conviction.<sup>142</sup>

20 The prosecutor engaged in misconduct during closing argument. Consider the  
21 following excerpts from the record. First:

22 How about Rufus? Now, Rufus, as we’ve talked about -- you  
23 know, we’re not trying to hide this. He was involved. He  
24 pled guilty to two felonies. He’s doing up to 15 years in  
25 prison and he has to testify truthfully. He knew the

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26  
27 <sup>142</sup> 3/4/2022 Order of Affirmance.

1 defendant for a while. He's not going to be confused about  
2 who he is or who was in the car.<sup>143</sup>

3 By arguing Rufus wouldn't be confused, the prosecutor improperly vouched for  
4 Rufus's credibility.

5 Then on rebuttal, speaking of the State's witness Julie Kniesl:

6 Consider this: Consider Julie's motive for picking the  
7 wrong person. She even told you the first time she saw the  
8 lineup, she didn't circle anyone. She's not going to guess.  
9 She's not going to get it wrong. Her boyfriend is the one  
10 who died. Don't you think she has more incentive than  
anybody else to make sure that that person is correctly  
identified? Otherwise, he's still out there running  
around.<sup>144</sup>

11 The prosecutor committed misconduct by vouching for the accuracy and reliable for  
12 Kniesl's identification.

13 Also on rebuttal, speaking of Rufus Smith:

14 And look, he was originally charged with the murder.  
15 That's not a secret that we've been keeping from you. But  
16 when you look at the instructions and you listen to what he  
said, he didn't intend for anyone to get murdered. He didn't  
apparently know that he even had gun.<sup>145</sup>

17 The prosecutor apparently tried to suggest to the jury there was some legal  
18 instruction or some obvious facts exculpating Rufus Smith in this case. This was  
19 prosecutorial misconduct stating facts not in evidence and misstating the law.

20 The prosecutor continued:

21 All he was asked to do, ladies and gentlemen, is tell the  
22 truth in regards to testifying, whatever that may be. And  
23 you got to see him. He was in here, in his prison clothes and  
24 chains, testifying for you. Did he look like this was -- he had  
just, you know -- this was the last part of that great deal he

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25 <sup>143</sup> 3/22/2018 Jury Trial Day 6 at 23.

26 <sup>144</sup> 3/22/2018 Jury Trial Day 6 at 51-52.

27 <sup>145</sup> 3/22/2018 Jury Trial Day 6 at 56.

1 got. Did he seem excited and happy to be here? Did he seem  
2 like he was just itching to give me answers? Or was it like  
3 pulling teeth to get him to tell me what happened? He  
4 answered the questions. And you certainly saw how he  
5 answered them.<sup>146</sup>

6 Here, the prosecutor vouched for Smith's credibility based on his personal opinion  
7 that Smith was a reluctant witness.

8 Despite such clear and obvious misconduct, trial counsel never objected, sought  
9 a curative instruction, or moved for a mistrial. The totality of the vouching and  
10 misconduct was part of the State's carefully calculated attempt to insert the  
11 prosecutor's personal opinion of the evidence to the detriment of Sheffield. In  
12 combination, these statements were extremely persuasive to the jury because a  
13 prosecutor's personal opinion carries great weight. Trial counsel was ineffective for  
14 failing to object. Accordingly, the Nevada Supreme Court's decision denying Sheffield  
15 relief was contrary to, or involved an unreasonable application, of clearly established  
16 federal law, and/or involved an unreasonable determination of the facts adduced in  
17 the state court record under 28 U.S.C. § 2254(d)(1) and (d)(2).

18 **G. Failure to object to the testimony of Dr. Jennifer Corneal.**

19 **Statement of Exhaustion:** This claim is new, technically exhausted, and  
20 procedurally defaulted, but Sheffield overcomes the default under *Martinez v. Ryan*.

21 The Constitution guarantees a defendant the right to confront witnesses.  
22 Where hearsay is involved, the Supreme Court has said that "where 'testimonial'  
23 hearsay evidence is at issue, the Sixth Amendment demands what the common law  
24 required: unavailability and a prior opportunity for cross-examination." *Crawford v.*  
25 *Washington*, 541 U.S. 36 (2004). Trial counsel failed to object when the State violated  
26 Sheffield's constitutional right to confrontation.

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27 <sup>146</sup> 3/22/2018 Jury Trial Day 6 at 57.

1 At trial, the State called Jennifer Corneal to testify as a medical examiner for  
2 the Clark County Coroner's Office.<sup>147</sup> Dr. Corneal testified about an autopsy that had  
3 been performed on Jonathan Collins as well as a toxicology report that had been  
4 prepared.<sup>148</sup> However, Dr. Corneal didn't performed the autopsy herself, nor did she  
5 prepare the toxicology report; instead, Dr. Elaine Olson (who had retired by the time  
6 of Sheffield's trial) performed the autopsy and prepared the toxicology report.<sup>149</sup>  
7 There was no evidence to suggest Dr. Olson was unavailable.

8 Under *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2008), assertions in drug  
9 lab reports made for the primary purpose of producing evidence for litigation are  
10 testimonial when they are formalized or accuse a targeted individual of a crime. *See*  
11 *also Williams v. Illinois*, 567 U.S. 50, 84 (2012) ("Introduction of the reports in those  
12 cases ran afoul of the Confrontation Clause because they were the equivalent of  
13 affidavits made for the purpose of proving the guilt of a particular criminal defendant  
14 at trial.") Here, Dr. Corneal relayed the findings and conclusions from the toxicology  
15 report in violation of *Melendez-Diaz*. On top of that, Dr. Corneal recounted the  
16 findings and conclusions of the autopsy report created by someone else. The same  
17 principles that apply to forensic reports apply to autopsies. Dr. Corneal's testimony  
18 violated Sheffield's confrontation rights.

19 Trial counsel's failure to object prejudiced Sheffield. Dr. Corneal testified the  
20 cause and the manner of Collins's death: "Gunshot wound to the chest, homicide."<sup>150</sup>  
21 Without the testimony, the State lacked the foundation for its murder case against  
22 Sheffield. Accordingly, trial counsel was ineffective.

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25 <sup>147</sup> 3/21/2018 Jury Trial Day 5 at 6.

26 <sup>148</sup> 3/21/2018 Jury Trial Day 5 at 8-13.

27 <sup>149</sup> 3/21/2018 Jury Trial Day 5 at 7, 11.

<sup>150</sup> 3/21/2018 Jury Trial Day 5 at 8.

1           **H. The cumulative effect of counsel’s errors prejudiced Sheffield.**

2           **Statement of Exhaustion:** This claim was exhausted during post-  
3 conviction.<sup>151</sup>

4           The numerous errors and deficiencies of counsel in this case require reversal  
5 of the conviction. Trial counsel never sought to test the pill bottle with the same  
6 caliber of ammunition inside as those used in the shooting. The jury clearly thought  
7 the pill bottle was important because during deliberations, they asked whose  
8 fingerprints were on the bottle and whose apartment was it found in. Trial counsel  
9 also failed to argue Sheffield alibi defense during closing arguments. This was  
10 important because the three eyewitnesses each lacked credibility, none more than  
11 Julie Kniesl, who failed to identify Sheffield from a photo lineup and only identified  
12 Sheffield after the police arrested him. An expert on eyewitness identification would  
13 have further undermined Kniesl’s identification as “essentially worthless.”  
14 Alternatively, trial counsel could have requested a pretrial lineup prior to the  
15 preliminary hearing so that the State couldn’t induce such a suggestive identification  
16 from Kniesl. And finally, trial counsel failed to object when the State bolstered the  
17 credibility of Kniesl and Smith during closing arguments.

18           Taken together, trial counsel’s failures prejudiced Sheffield. Had trial counsel  
19 performed effectively, there is a reasonable probability that the jury would have  
20 concluded there was reasonable doubt whether Sheffield was actually the shooter and  
21 acquitted him.

22           **Ground 3: Sheffield was denied his right to confrontation under the Sixth**  
23 **and Fourteenth Amendments to the United States Constitution.**

24           **Statement of Exhaustion:** This claim is new, technically exhausted, and  
25 procedurally defaulted, but Sheffield overcomes the default under *Martinez v. Ryan*.  
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27           <sup>151</sup> 3/4/2022 Order of Affirmance.



1 The Constitution guarantees a defendant the right to confront witnesses.  
2 Where hearsay is involved, the Supreme Court has said that “where ‘testimonial’  
3 hearsay evidence is at issue, the Sixth Amendment demands what the common law  
4 required: unavailability and a prior opportunity for cross-examination.” *Crawford v.*  
5 *Washington*, 541 U.S. 36 (2004). Applying *Crawford*, Sheffield can demonstrate that  
6 he was denied his constitutional right to confrontation.

7 At trial, the State called Jennifer Corneal to testify as a medical examiner for  
8 the Clark County Coroner’s Office.<sup>152</sup> Dr. Corneal testified about an autopsy that had  
9 been performed on Jonathan Collins as well as a toxicology report that had been  
10 prepared.<sup>153</sup> However, Dr. Corneal didn’t performed the autopsy herself, nor did she  
11 prepare the toxicology report; instead, Dr. Elaine Olson (who had retired by the time  
12 of Sheffield’s trial) had performed the autopsy and prepared the toxicology report.<sup>154</sup>  
13 There was no evidence to suggest Dr. Olson was unavailable.

14 Under *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2008), assertions in drug  
15 lab reports made for the primary purpose of producing evidence for litigation are  
16 testimonial when they are formalized or accuse a targeted individual of a crime. *See*  
17 *also Williams v. Illinois*, 567 U.S. 50, 84 (2012) (“Introduction of the reports in those  
18 cases ran afoul of the Confrontation Clause because they were the equivalent of  
19 affidavits made for the purpose of proving the guilt of a particular criminal defendant  
20 at trial.”) Here, Dr. Corneal relayed the findings and conclusions from the toxicology  
21 report in violation of *Melendez-Diaz*. On top of that, Dr. Corneal recounted the  
22 findings and conclusions of the autopsy report created by someone else. The same  
23  
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25 <sup>152</sup> 3/21/2018 Jury Trial Day 5 at 6.

26 <sup>153</sup> 3/21/2018 Jury Trial Day 5 at 8-13.

27 <sup>154</sup> 3/21/2018 Jury Trial Day 5 at 7, 11.

principles that apply to forensic reports apply to autopsies. Dr. Corneal's testimony violated Sheffield's confrontation rights.

**PRAYER FOR RELIEF**

Accordingly, Sheffield respectfully requests that this Court:

1. Issue a writ of habeas corpus to have Sheffield brought before the Court so that he may be discharged from his unconstitutional confinement;

2. Conduct an evidentiary hearing at which proof may be offered concerning the allegations in this amended petition any defenses that may be raised by respondents; and

3. Grant such other and further relief as, in the interests of justice, may be appropriate.

Dated December 6, 2023.

Respectfully submitted,

Rene L. Valladares  
Federal Public Defender

/s/ Ron Sung

Ron Sung  
Assistant Federal Public Defender

**DECLARATION UNDER PENALTY OF PERJURY**

I declare under penalty of perjury under the laws of the United States of America and the State of Nevada that the facts alleged in this petition are true and correct to the best of counsel's knowledge, information, and belief.

Dated December 6, 2023.

Respectfully submitted,

Rene L. Valladares  
Federal Public Defender

/s/ Ron Sung

Ron Sung  
Assistant Federal Public Defender